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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,399	09/16/2002	Phillip Mackie	2625-1-001	1754

7590

04/26/2005

Klauber & Jackson  
Continental Plaza  
411 Hackensack Avenue  
Hackensack, NJ 07601

EXAMINER
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NAKARANI, DHIRAJLAL S

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/009,399	MACKIE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	D. S. Nakarani	1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 26, 2004 has been entered.
2. The references cited in the Search Report of Australian Patent Office dated June 20, 2000 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-17 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13-25 of copending Application No. 10/826,143. Although the conflicting claims are not identical,

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they are not patentably distinct from each other because both applications claimed identical method.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1-17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Feder (U.S. patent 5,140,061 for the reasons of record set forth in paragraph 6 of the Office Action mailed March 30, 2004 (Paper No. 20040317). In addition the silicone elastomer produced by reaction of an alpha - omega -(dihydroxy) polydiorganosiloxane and an amino silane and/or amidosilane deemed to have either -NH<sub>2</sub> groups or -NH-groups unless shown otherwise. Further the silicone -elastomer deemed to have residual hydroxyl groups from either from alpha-omega -(dihydroxy) polydiorganosiloxane and/or from hydrolyzed aminosilane and/or amidosilane unless shown otherwise.

6. Applicant's arguments filed November 26, 2004 have been fully considered but they are not persuasive. In reference to rejection of claims 1-17 under 35 USC 102(b) as being anticipated by Feder (U.S. Patent 5,140,061), applicant continue to argue that the terminal hydroxy groups of the alpha-omega-(dihydroxy) polydiorganosiloxane react with the hydrolysable amino or amido groups of the silane to form the cross-linked elastomeric product. There is no teaching or suggestion that the product itself of this cross-linking reaction comprises reactive groups that are free to react with flavor-active or odor-active taint compounds. Applicants also submit data in the form of Rule 132

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Declaration of Rosalind Ma demonstrating the reactivity of the reactive polymers.

Applicants also state that –NH-groups in the cross-linked elastomer of Feder may have an affinity to react with the trichloroanisole but those groups may not be easily accessible to the trichloroanisole molecule.

These arguments are unpersuasive because there is no showing that Feder's cross-linked elastomer having –NH – does not react or is not accessible to trichloroanisole molecule when passing through the cross-linked elastomer. Further Rosalind Ma's declaration shows reactivity of silanes not the polymers as argued. The claimed invention is not limited to the coating of silanes. There is no showing that the claimed all polymers have reactive groups which react with trichloroanisole.

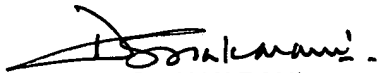
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. S. Nakarani/af  
April 7, 2005

  
**D. S. NAKARANI**  
**PRIMARY EXAMINER**